235.070–2

(1) Claims by third persons (including employees) for death, bodily injury, or loss of or damage to property; and
(2) Loss of or damage to the contractor’s property to the extent that the liability, loss, or damage—
(i) Results from a risk that the contract defines as “unusually hazardous;”
(ii) Arises from the direct performance of the contract; and
(iii) Is not compensated by insurance or other means.

(b) Clearly define the specific unusually hazardous risks to be indemnified. Submit this definition for approval with the request for authorization to grant indemnification. Include the approved definition in the contract.

[56 FR 36416, July 31, 1991, as amended at 64 FR 51076, Sept. 21, 1999]

235.070–2 Indemnification under contracts involving both research and development and other work.

These contracts may provide for indemnification under the authority of both 10 U.S.C. 2354 and Public Law 85–804. Public Law 85–804 will apply only to work to which 10 U.S.C. 2354 does not apply. Actions under Public Law 85–804 must also comply with FAR 50.104–3.

[56 FR 36416, July 31, 1991, as amended at 78 FR 21850, Apr. 12, 2013]

235.070–3 Contract clauses.

When the contractor is to be indemnified in accordance with 235.070–1, use either—

(a) The clause at 252.235–7000, Indemnification Under 10 U.S.C. 2354—Fixed Price; or
(b) The clause at 252.235–7001, Indemnification Under 10 U.S.C. 2354—Cost-Reimbursement, as appropriate.

235.071 Export-controlled items.

For requirements regarding access to export-controlled items, see 225.7901.